

REMARKS

The Office Action dated April 5, 2007, has been received and carefully considered. Reconsideration of the outstanding objections/rejections in the present application is also respectfully requested based on the following remarks.

I THE NON-STATUTORY SUBJECT MATTER REJECTION OF CLAIMS 1-3 AND 5-8

On page 2 of the Office Action, claims 1-3 and 5-8 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. This rejection is hereby respectfully traversed.

The Examiner asserts that claims 1-3 and 5-8 are not limited to tangible embodiments. However, there is no such requirement on patentable subject matter as long as the claimed invention as a whole accomplishes a practical application. That is, it must produce a “useful, concrete and tangible result.” State Street Bank & Trust Co. v. Signature Financial Group Inc., 149 F.3d 1368, 1373, 47 USPQ2d 1596, 1601-02. Furthermore, Applicants direct the Examiner to the case law set forth in In re Beauregard, 35 USPQ 2d 1383, 1384 (Fed. Cir. 1995), In re Lundgren, (B.P.A.I. Case No. 2003-2088 (September 28, 2005)), and others, which clearly provide a patentable subject matter basis for claim(s) .

At this point it should be noted that claims 1-3 and 5-8 do recite tangible embodiments. For example, claim 1 recites “determining a difference between the aggregated minimum cash balance and the pooled minimum cash balance, where the difference is a benefit of pooling.” Applicant respectfully submits that such “a benefit of pooling” is a tangible end result. Claims 2-3 and 5-8 depend from claim and are therefore proper for at least this reason.

In view of the foregoing, it is respectfully requested that the aforementioned non-statutory subject matter rejection of claims 1-3 and 5-8 be withdrawn.

II. THE ANTICIPATION REJECTION OF CLAIMS 1, 4-9 AND 12-16

On page 2 of the Office Action, claims 1, 4-9 and 12-16 were rejected under 35 U.S.C. § 102 as being anticipated by Bent (U.S. Patent No. 2002/0091637). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id. “In addition, the prior art reference must be enabling.” Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). Such possession is effected only if one of ordinary skill in the art could have combined the disclosure in the prior art reference with his/her own knowledge to make the claimed invention. Id.

Regarding claim 1, the Examiner asserts, among other things, that Bent discloses the step of “determining separate minimum cash balances required in the separate cash account.” The Examiner specifically alleges that such a step is disclosed on Figure 1 and paragraphs 0027 and 0038 of the Bent specification. Applicant respectfully submits, however, that Bent is not prior art to the above application. In particular, Applicant respectfully submits that Bent is entitled to a filing date of February 8, 2002¹, whereas the above application has the benefit of the

¹ Bent is a continuation-in-part of application No. 09/176,340 (now U.S. Patent No. 6,374,231) and application No. 09/677,535, neither of which discloses the subject matter relied upon by the Examiner in rejecting pending claim 1 of the above application. Accordingly,

provisional application Serial No. 60/272,546 which was filed on March 1, 2001. Accordingly, Applicant respectfully submits that Bent is not prior art to the above application and that claim 1 is therefore allowable.

Regarding claim 9, this claim recites subject matter related to claim 1. Thus, the arguments set forth above with respect to claim 1 are equally applicable to claim 9. Accordingly, it is respectfully submitted that claim 1 is allowable over Bent for the same reasons as set forth above with respect to claim 1.

Regarding claims 2-8 and 10-16, these claims are dependent upon independent claim 1 or 9. Thus, since independent claims 1 and 9 should be allowable as discussed above, claims 2-8 and 10-16 should also be allowable at least by virtue of their dependency on independent claim 1 or 9.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1, 4-9 and 12-16 be withdrawn.

I. THE OBVIOUSNESS REJECTION OF CLAIMS 2-3 AND 10-11

On page 6 of the Office Action, claims 2-3 and 10-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bent in view of Tanaka (U.S. Patent No. 5,799,288). This rejection is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation

Applicant respectfully submits that Bent is not entitled to the filing dates of either of those applications.

of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that claims 2-3 and 10-11 are allowable for at least the same reasons set forth above in connection with claims 1, 4-9 and 12-16.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 2-3 and 10-11 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

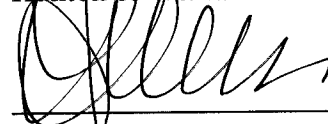
To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time and new claim fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP

By:

A handwritten signature in black ink, appearing to read 'Ozzie A. Farres', written over a horizontal line.

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